

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NATALIE BRUESCH,

Plaintiff,

v.

WINCO FOODS,

Defendant.

CASE NO. 2:22-cv-00113-TL

ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND

On January 29, 2022, Plaintiff Natalie Bruesch filed a complaint against Winco Foods in Edmonds, Washington. Dkt. No. 1-1 at 2. Plaintiff Bruesch is bringing this case without an attorney to represent her (in other words, *pro se*). *See generally id.*

On March 14, 2022, Plaintiff Bruesch's motion to proceed *in forma pauperis* was granted because she appears to financially qualify for that status pursuant to 28 U.S.C. § 1915(a)(1). Dkt. No. 5. In that order, the United States Magistrate Judge recommended review of the complaint

1 under 28 U.S.C. § 1915 (e)(2)(B). *Id.* The Court is required to dismiss a case if it determines that
2 the action “fails to state a claim on which relief may be granted.” 28 U.S.C. § 1915(e)(2)(B)(ii).

3 Federal courts are courts of limited jurisdiction, meaning that they can only hear certain
4 types of cases. *Home Depot U.S.A., Inc. v. Jackson*, 139 S. Ct. 1743, 1746 (2019) (internal
5 citation omitted). The typical bases for federal jurisdiction are established where (1) the
6 complaint presents a federal question “arising under the Constitution, laws, or treaties of the
7 United States” or (2) where the parties are diverse (*e.g.*, residents of different states) and the
8 amount in controversy exceeds \$75,000. 28 U.S.C. §§ 1331, 1332.

9 Plaintiff alleges that she was exiting a store in September 2020 when two store
10 employees approached her; Plaintiff alleges that one of the store employees grabbed her “with
11 excessive force” and then “shove[d]” her into an “interrogation room.” Dkt. No. 1-1 at 5.
12 According to her account, the employee then told police she had assaulted him, and Plaintiff
13 “spent the night in jail for trying to defend [herself] from the attack.” *Id.* She alleges damages of
14 \$375,000 due to physical and emotional harm. *Id.*

15 The only cause of action presented in Plaintiff Bruesch’s complaint is under 18 U.S.C.
16 §241, for conspiracy against rights. Dkt. No. 6 at 3. This is a federal criminal statute that private
17 citizens cannot enforce. *Aldabe v. Aldabe*, 616 F.3d 1089, 1092 (9th Cir. 1980). Because Plaintiff
18 Bruesch cannot bring a civil suit on the basis of this statute, her complaint fails to state a claim
19 upon which relief can be granted. *See, e.g., Mendoza v. Inslee*, 3:19-cv-06216-BHS, 2020 WL
20 1271574, at *4 (W.D. Wash. Mar. 17, 2020) (dismissing, among other things, a claim brought
21 under 18 U.S.C. § 241). This Court does not appear to have subject matter jurisdiction over this
22 case as Plaintiff has neither plead a proper federal cause of action nor established diversity
23 jurisdiction.

1 This Court liberally construes pleadings filed by *pro se* litigants and holds them “to less
 2 stringent standards than formal pleadings drafted by lawyers.” *Erickson v. Pardus*, 551 U.S. 89,
 3 94 (2007) (per curiam) (internal citation omitted). But a court “should not supply essential
 4 elements of the [*pro se*] claim that were not initially pled.” *E.g., Henderson v. Anderson*, 2:19-
 5 cv-00789-RAJ, 2019 WL 3996859, at *1 (W.D. Wash. Aug. 23, 2019) (internal citation and
 6 quotation omitted); *see also Khalid v. Microsoft Corp.*, 409 F. Supp. 3d 1023, 1031 (W.D. Wash.
 7 2019) (“[C]ourts should not have to serve as advocates for *pro se* litigants.” (quoting *Noll v.*
 8 *Carlson*, 809 F.2d 1446, 1448 (9th Cir. 1987))). Also, “it is axiomatic that *pro se* litigants,
 9 whatever their ability level, are subject to the same procedural requirements as other litigants.”
 10 *Muñoz v. United States*, 28 F.4th 973, 978 (9th Cir. 2022). The Court is also mindful that, except
 11 where “it is ‘absolutely clear that the deficiencies of the complaint could not be cured by
 12 amendment,’ ” that a *pro se* plaintiff should be given opportunity to amend their complaint.
 13 *Schucker v. Rockwood*, 846 F.2d 1202, 1203–04 (9th Cir. 1988) (per curiam) (internal citations
 14 omitted).

15 Therefore, Plaintiff Bruesch’s claims are dismissed without prejudice. She may file an
 16 amended complaint within **thirty (30) days** of this Order (*i.e.*, **by June 16, 2022**).

17 Dated this 17th day of May 2022.

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 19 _____
 20 Tana Lin
 21 United States District Judge
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